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March 30, 2011

VIA ECFS
Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 Twelfth Street, SW
Washington, DC 20554

<div align="center">

Re: *WT Docket No. 11-25*
        WRITTEN EX PARTE COMMUNICATION

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Dear Ms. Dortch:

BridgeWave Communications Inc. ("BridgeWave"), by its undersigned counsel, hereby submits this *ex parte* letter to respond to the reply comments submitted by Motorola Solutions, Inc. ("MSI") in the above-referenced proceeding.[1] BridgeWave is compelled to submit this letter because MSI waited until the reply round to raise its concerns for the first time.[2]

MSI takes BridgeWave to task for not submitting its waiver request ("Request") in the Commission's pending rulemaking that addresses a variety of wireless backhaul issues unrelated to the Request (WT Docket 10-153, or the "*Wireless Backhaul NPRM*").[3] Specifically, MSI alleges that BridgeWave's channel aggregation proposal "could have been part of [the rulemaking], but BridgeWave chose to pursue an approach unique to its own technology rather than an industry-wide solution."[4]

MSI's reading of the Request is not correct. First, as plainly indicated on the first page of the document, BridgeWave filed the request on May 12, 2010, nearly three months *before* the

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[1] *See* Reply Comments of Motorola Solutions, Inc., WT Docket No. 11-25 (filed Mar. 25, 2011) ("MSI Reply Comments").

[2] MSI did not file initial comments, and thus BridgeWave has had no opportunity to respond to new matters raised in MSI's reply comments.

[3] *See* Amendment of Part 101 of the Commission's Rules to Facilitate the Use of Microwave for Wireless Backhaul and Other Uses and to Provide Additional Flexibility to Broadcast Auxiliary Service and Operational Fixed Microwave Licensees, *Notice of Proposed Rulemaking and Notice of Inquiry*, 25 FCC Rcd 11246 (2010) ("*Wireless Backhaul NPRM*").

[4] MSI Reply Comments at 5.

Commission adopted and released the *Wireless Broadband NPRM*.[5] Second, the Request stated the following:

> Recognizing the [backhaul] problem, the Commission made a series of recommendations in the [National Broadband Plan, or "NBP"] to increase the flexibility, capacity and cost-effectiveness of spectrum for point-to-point wireless backhaul services.   In particular, the Commission recommended the commencement of a rulemaking proceeding specifically targeted at maximizing use of Part 101 spectrum for backhaul service.…BridgeWave applauds the Commission's initiative on Part 101 reform, and looks forward to working with the agency and other interested parties in developing permanent channel aggregation rules.…
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> . . .
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> In the interim, however, there remains the question of how the Part 101 spectrum can be optimized to meet the *immediate* demand for high-capacity backhaul solutions that can be deployed quickly and at reasonable cost.…[T]he demands of the National Broadband Plan suggest that even more can and should be done pending completion of the Commission's post-NBP rulemaking on Part 101 reform.[6]

The rulemaking referenced in the above-quoted passage is the *Wireless Broadband NPRM*. In that proceeding, however, the Commission did not raise or ask for comment on the Request or on channel aggregation in the 18 GHz band generally.[7] Rather, the Commission assigned the Request to a separate docket (WT Docket No. 11-25) and solicited comments and reply comments on the Request accordingly. Thus, contrary to what MSI appears to suggest, BridgeWave has not been avoiding the *Wireless Broadband NPRM*. Indeed, BridgeWave openly acknowledged in the Request that the *Wireless Broadband NPRM* was forthcoming and expressed a willingness to work cooperatively towards establishing permanent channel aggregation rules for the 18 GHz band. The Commission simply chose a different procedural approach that still provides interested parties with a full and fair opportunity to offer their views on BridgeWave's proposal.

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[5] The Commission adopted and released the *Wireless Backhaul NPRM* on August 5, 2010.

[6] BridgeWave Communications Inc. Request for Waiver to Permit Channel Aggregation by Non-MVPD Users of the 18 GHz Band, WT Docket No. 11-25, at 5 (filed May 12, 2010) (footnote omitted) (emphasis in original) ("Request").

[7] This is not surprising, as the Commission made it clear that the *Wireless Backhaul NPRM* was intended to address backhaul spectrum below 13 GHz. *See Wireless Backhaul NPRM*, 25 FCC Rcd at 11248.

In sum, BridgeWave can only repeat what it has already said in its reply comments in this proceeding: (1) not a single party has opposed the Request on its merits, and, in fact, parties have highlighted the public interest benefits of BridgeWave's proposal in their initial comments;[8] (2) Commission precedent militates strongly in favor of a grant of the Request with the conditions already agreed to by BridgeWave;[9] and (3) there is nothing in the Request that would stop the Commission from initiating a rulemaking on channel aggregation in the 18 GHz band – as it did in the *FiberTower* case, the Commission may grant the Request subject to any permanent channel aggregation rules it adopts at a later date (a condition which, again, BridgeWave has already agreed to).[10]

Pursuant to Sections 1.1206(b)(1) and 1.49(f) of the Commission's Rules, this letter is being filed electronically with the Commission via the Electronic Comment Filing System. Should you have any questions regarding this matter, please contact the undersigned.

Very truly yours,

/s/ Robert D. Primosch

Robert D. Primosch
Counsel for BridgeWave Communications Inc.

cc: Kevin Holmes (via e-mail)
         John Schauble (via e-mail)
         Chuck Powers

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[8] Reply Comments of BridgeWave Communications Inc., WT Docket No. 11-25, at 1-2 (filed Mar. 25, 2011).
[9] *Id.* at 2-3.
[10] *Id.* at 3-4.